REMARKS

This application has been amended in a manner that is believed to place it in condition for allowance at the time of the next Official Action.

Claims 1-10 and 19-26 are pending in the present application. Claim 1 has been amended to address an informality raised in the Office Action. Claims 23 and 25 have been rewritten as independent claims. As there are no outstanding rejections concerning claims 23 and 25, applicant believes that these are now allowable.

In the outstanding Official Action, claim 1 was objected to for reciting the phrase "the surface". The Official Action alleged that this term lacked antecedent basis. However, as the phrase relates to the already recited coating layer, it is believed that claim 1 provides antecedent basis for this term. Nevertheless, in the interest of advancing prosecution, applicant has amended claim 1 to clarify this matter.

Claims 1-4, 9, and 19 were rejected under 35 USC §103(a) as allegedly being unpatentable over EP 0 554 896 to LESCA et al. in view of RUBIN et al. This rejection is respectfully traversed.

The present invention is directed to a coated textile having printed patterns comprising a textile underlayer forming a backing and a coating layer based on a polyolefin component and an EPDM-type elastomer.

As noted in the amendment of September 21, 2004, LESCA et al. disclose a polypropylene non-woven material bonded to a heterophasic polymer composition comprising a polyolefin and an EPDM copolymer. In imposing the rejection, the Official Action acknowledges that LESCA et al. fail to teach a coated textile having printed patterns as set forth in the claimed invention.

In another difference between the cited publication and the claimed invention, LESCA et al. also fail to teach or disclose a coated textile, wherein a coating layer has printed patterns on the surface of said coating layer which are not bonded to the textile underlayer. Indeed, it is respectfully submitted that this recitation is not addressed by the Official Action. Thus, it is believed that LESCA et al. fail to disclose or suggest the claimed invention.

Moreover, as pointed out in the amendment of September 21, 2004, but not addressed by the Official Action, applicant traverses the contention that the LESCA et al. publication discloses a composition which would inherently have a Shore hardness value of 30 to 50. An allegation that an article may inherently have the characteristics of the claimed product is not sufficient. *Ex parte Skinner*, 2 USPQ2d 1788 (BPAI 1986). Indeed, inherency must be a necessary result, and not just a possible result. *In re Oelrich*, 666 F.2d 578, 212 USPQ 323 (CCPA 1981). While the Official Action contends that the properties inherently are present since the same materials are used,

applicant notes that the same recitations and materials are not taught.

As the Official Action fails to provide any evidence that the proposed combination of references would necessarily result in a material having a Shore hardness value of 30 to 50, applicant believes that the Official Action fails to satisfy its burden in showing that these recitations are inherent to LESCA et al.

In an effort to remedy the deficiencies of LESCA et al., the Official Action cites to RUBIN et al.

RUBIN et al. disclose a liquid and stain resistant antimicrobial fabric that can withstand high temperatures required for transfer printing.

RUBIN et al. cover a fabric thoroughly with a coating composition comprising a copolymer composition, an antimicrobial agent, and a fluorochemical composition (column 2, lines 16-19). The coated fabric may then be printed by transfer printing (column 2, lines 28-30).

According to the Official Action, it would have been obvious to one of ordinary skill in the art to modify the combination of LESCA et al. and RUBIN et al. to include printed patterns on polymeric coatings since RUBIN et al. teach doing so provides aesthetic color prints and designs to coated fabric.

However, it is respectfully submitted that the teaching of RUBIN et al., if considered as a whole, does not render the invention obvious when combined with LESCA et al.

Indeed, RUBIN et al. emphasize that the printability of a coating layer is difficult to achieve. Moreover, according to this publication, fabrics treated to be liquid and stain resistant were difficult to print, in particular due to the low melting temperature of the coating is incompatible with the printing process (column 1, lines 21-29).

Applicant also notes that the only copolymer composition taught by RUBIN et al. is an acrylic copolymer such as butyl acrylate, ethyl acrylate and styrene acrylate copolymers (column 2, lines 34-36).

As a result, the disclosed coating layers are less advantageous, notably in terms of printing by heliogravure and application to the textile backing by calendaring or extrusion.

Thus, in view of the coating printability, it could not be obvious to dissociate the idea of printing the coating layer from the chemical nature of the coating layer.

Moreover, applicant notes that RUBIN et al. also fail to teach:

(...) a coating layer has printed patterns on the surface of said coating layer <u>which are not bonded</u> to the textile underlayer (emphasis added).

As noted above, applicant believes that such a feature is not disclosed or suggested by any of the cited documents. Indeed, RUBIN et al. fail to teach such a possibility, and instructs one skilled in the art that the coating layer is applied by spraying or dipping, methods which appear unlikely to produce a partially bonded coating layer.

However, the partial bonding between a textile backing and coating layer is advantageous in particular because it contributes to enhance flexibility of the coated textile.

In view of the above, applicant believes that one of ordinary skill in the art would lack the motivation to combine and modify LESCA et al. in view of RUBIN et al. to obtain the claimed invention. Moreover, even if one of ordinary skill in the art were to combine the two publications, one still would not obtain the claimed invention. Thus, applicant believes that the proposed combination of references fails to render obvious claims 1-5, 9, and 19.

At this time, the Examiner attention is also directed to the decision reached in *In re Kotzab*, 217 F.3d 1365, 1369-70, 55 USPQ2d 1313, 1316 (Fed. Cir. 2000) (citations omitted):

> A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by prior art and the then-accepted wisdom in the field. [] Close adherence to this methodology is especially important in cases where the very ease with which the invention may prompt one "to fall victim to the insidious effect of a

> hindsight syndrome wherein that which only the invention taught is used against its teacher.
>
> ...[T]o establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant.

As none of the publications, alone or in combination with each other, direct or suggest to one skilled in the art the combination of layers as claimed, applicants believe that the proposed combination of LESCA et al. and RUBIN et al. fails to render obvious the claimed invention.

Claim 6 was rejected under 35 USC §103(a) as allegedly being unpatentable over EP 0 554 896 to LESCA et al. in view of U.S. Patent No. 5,366,799 to RUBIN et al. and further in view of U.S. Patent No. 6,268,438 to ELLUL et al. This rejection is respectfully traversed.

However, ELLUL et al. is directed to the use of EPDM polymers made by metallocene catalysts for use in dynamically vulcanized alloys. ELLUL et al. publication fails to remedy the above-identified deficiencies of LESCA et al. and RUBIN et al. Thus, it is believed that the proposed combination fails to render obvious claims 5 and 6.

Claims 7 and 8 were rejected under 35 USC §103(a) as allegedly being unpatentable over LESCA et al. in view of RUBIN et al. and further in view of KANKI et al. This rejection is respectfully traversed.

KANKI et al. teach a decorative material where a primer layer may be provided to improve adhesion between layers. However, KANKI et al. fail to remedy the above-identified deficiencies of LESCA et al. and RUBIN et al. As a result, it is believed that the combination of LESCA et al. in view of RUBIN et al. and further in view of KANKI et al. fails to render obvious claims 7 and 8.

Claim 10 was rejected under 35 USC §103(a) as allegedly being unpatentable over LESCA et al. in view of RUBIN et al. and further in view of HOEY. This rejection is respectfully traversed.

The outstanding Official Action states that HOEY discloses a decorative laminate having foam latex under a textile fabric and a printed film on top (see Official Action, page 5). However, HOEY does not teach A coated textile having printed patterns, comprising a textile underlayer forming a backing and combined with a coating layer formed from a film based on a polyolefin component and on an EPDM-type elastomer, wherein said coating layer has printed patterns on the surface which are not bonded to the textile underlayer.

As a result, applicant believes that the proposed combination of LESCA et al. in view of RUBIN et al. and further in view of HOEY fails to render obvious claim 10.

Claim 20 was rejected under 35 USC §103(a) as allegedly being unpatentable over LESCA et al. in view of RUBIN et al. in view of OSHIMA et al. This rejection is respectfully traversed.

Applicant believes that OSHIMA et al. fail to remedy the above-identified deficiencies of LESCA et al. and RUBIN et al. The OSHIMA et al. publication is limited to a decorative sheet S3 that may be applied to a tablecloth. However, the OSHIMA et al. reference fails to remedy the deficiencies of LESCA et al. and RUBIN et al. As a result, it is believed that the proposed combination of LESCA et al. in view of RUBIN et al. and further in view of OSHIMA et al. fails to disclose or suggest claim 20.

In the outstanding Official Action, claim 21 was rejected under 35 USC §103(a) as allegedly being unpatentable over LESCA et al. in view of RUBIN et al. and further in view of RYGIEL. This rejection is respectfully traversed.

In imposing the rejection, the outstanding Official action concedes that LESCA et al. do not teach the fabric including printed wall textiles. The outstanding Official Action cites to RYGIEL as teaching three-dimensional panels having printed patterns. However, the RYGIEL publication fails to remedy the above-identified deficiencies of LESCA et al. in view of RUBIN et al.

Thus, it is believed that the proposed combination does not render obvious claim 21.

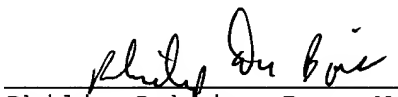
Finally, applicants respectfully note that they have received a third non-final Office Action in the present application (See Official Actions of 9-16-03; 4-21-04; and 11-02-04). The Examiner's attention is respectfully directed to MPEP §707.07, wherein it is stated that this type of piecemeal examination should be avoided as much as possible.

Thus, in view of the present amendment and the foregoing remarks, it is believed that this application is in condition for allowance, with claims 1-10 and 19-26, as presented. Such action is accordingly respectfully requested on that basis.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



Philip Dubois, Reg. No. 50,696
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

PD/lk